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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,100	06/08/2005	Qiong Li	PHUS020545	1358
24737 7590 02/06/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER CHEN, YAN LU	
			ART UNIT 2146	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,100	Applicant(s) LI ET AL.	
	Examiner Yan Chen	Art Unit 2146	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/8/2005</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1-14 are objected to because of the following informalities: Claims 1-14 contain reference numbers in the claim language and it is considered to have improper format. For example, claim 1 recites "a circular buffer (10) of size", the number in the parenthesis should be removed so as to recite "a circular buffer of size". Appropriate correction is required.

Specification

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

- (I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-7, the claimed subject matter "a system" is directed toward software per se. Since computer software is merely a set of instructions capable of being executed by a computer, the computer software itself is not a process. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1-14 recites that a circular buffer stores a sequence number of a non-received and possibly lost packet. The specification does not appear to specify how and when the entry in the buffer is filled with sequence number of a non-received and possibly lost packet. It would require undue experimentation for one of ordinary skill in the art to make and use the invention since there is no description of how the recited limitation is done.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a packet loss detection module that uses the circular buffer to detect and store therein a sequence number of non-received and possibly lost packet". It is unclear whether the packet loss detection module is using the already stored sequence number of non-received and possibly lost packet in the circular buffer for detecting a lost packet sequence number or the packet loss detection module is using the already stored sequence number of received packet in the circular buffer for detecting a lost packet sequence number or the detection of lost packet sequence number is determined elsewhere and then the determined packet sequence number that was determined elsewhere is stored in the circular buffer. For examination

purpose, it is interpreted that the circular buffer stores the received packet sequence number and that the detection of lost packet and out-of-order packet by observing the abnormality in the received packet sequence number.

Claim 3 recites "each entry of the circular buffer that is in the hole is checked for a sequence number of a possibly lost packet". It is unclear what are the entries of the circular buffer that is being checked. Furthermore, it is unclear what constitute as each entry of the circular buffer that is in "the hole".

Claims 6, 8 and 12 are rejected on the same basis as claim 1. See the discussions regarding claim 1 above for details.

Claims 7, 9 and 13 are rejected on the same basis as claim 3. See the discussions regarding claim 3 above for details.

Any claim not specifically addressed, above, is being rejected as incorporation the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenney et al., Publication No.: US 2006/0077953 A1 (hereinafter Kenney) and further in view of Eckberg, Publication No.: US 2003/0202528 A1 (hereinafter Eckberg).

10. In light of the 35 U.S.C 112, 2nd paragraph rejection shown above and based on the best interpretation of the claims by the examiner, the following rejections are provided by the examiner.

Regarding claims 1, 6, 8 and 12,

Kenney teaches a lost packet detection unit on the receiver device that detects lost packet by observing sequence number of the received packets. The lost detection unit examines each packet in the stream to determine when packets are missing by checking sequence numbers (paragraph [0034]).

Kenney does not explicitly disclose that the received packet information is stored in a circular buffer.

Eckberg teaches a circular buffer that is utilized for storage of voice packets.

It would have been obvious to one of ordinary skill in the art, having the teachings of Kenney and Eckberg before them at the time the invention was made to modify system of Kenney to use circular buffer for storing packet and related information as taught by Eckberg.

One of ordinary skill in the art would have been motivated to make this modification in order to take advantage of circular buffer FIFO storage characteristics and that the elements in the buffer need not be shuffled around.

Regarding claim 2, Kenney and Eckberg teach the system according to claim 1, as described above.

Kenney in view of Eckberg does not explicitly disclose the size of the circular buffer is initially set to 4.

It would have been obvious to one of ordinary skill in the art, having the teachings of Kenney in view of Eckberg before them at the time the invention was made to modify the system of Kenney in view of Eckberg to set the initial circular buffer size to 4.

One of ordinary skill in the art would have been motivated to make this modification as a preferred design choice.

Conclusion

11. Examiner's Notes: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yan Chen whose telephone number is (571) 270-1926. The examiner can normally be reached on Monday through Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YC


JEFFREY PWU
SUPERVISORY PATENT EXAMINER